

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.5734 OF 1985

For Approval and Signature

The Hon'ble Mr. Justice S.K. KESHOTE

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1. Whether reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the reporters or not ?
 3. Whether their lordships wish to see the fair copy of the judgment ?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
 5. Whether it is to be circulated to the Civil Judge?

M/S. RAMNIK INDUSTRIES
VERSUS
THE UNION OF INDIA & ORS.

Appearance:

None present for Petitioner
None present for Respondents

Coram: S.K. Keshote,J
Date of decision:15/08/1997

C.A.V. JUDGMENT

#. The matter was called out for hearing in the first round, then in the second round and lastly in the third round, but none put appearance on behalf of petitioner as well as respondents.

#. Perused the Special Civil Application. Not only the respondents have not appeared through advocate in this case, even a reply to the Special Civil Application has not been filed, and as such, the averments made by petitioner in Special Civil Application stand uncontroverted.

#. This is a second inning by the petitioner. Earlier, the petitioner filed Special Civil Application No.3834 of 1983 before this Court. This Special Civil Application has been decided by this Court on 26th November 1983 and the order passed therein reads as under:

In this petition Mr.Bhatt for the Railway administration states that the wagon in question had arrived at without label on 12.1.83 at Ukai and it was delivered to the power house, Ukai and that if the petitioner so desires, he will be given either compensation without raising the bar of Section 78(b) of the Indian Railways Act, or the petitioner will be given recoupment of the same quality and quantity of the coal on production of the relevant documents before the concerned authorities within three months from the date of production of the documents before the authorities. In that statement being made, Shri Mahendra Shah withdraws this petition which stands rejected as withdrawn. Liberty to apply.

#. The petitioner has come up with grievance before this Court that the respondents had diverted and/or intercepted booked coal wagon of the petitioner to Ukai power house. In the earlier Special Civil Application, the learned counsel for respondent has given out that if the petitioner so desires, he will be given either compensation without raising bar of Section 78(b) of the India Railway Act or he will be given recoupment of the same quality and quantity of the coal on production of railway documents before concerned authorities within stipulated period as mentioned therein. It is case of petitioner that the aforesaid undertaking given by the counsel for respondents before this Court was not honoured and he filed contempt petition before this Court but the same has been dismissed on the ground of

limitation. Hence this Special Civil Application.

#. The petitioner has not filed any document of his claim. However, once this Court has decided the matter, it is obligatory on the part of respondents to carry out its undertaking. However, interest of justice will be met in case this Special Civil Application is disposed of with directions to respondents to carry out the order of this Court dated 26.11.83, in which undertaking has been given by their counsel, within a period of three months from the date of receipt of certified copy of this order and in case the petitioner produces the original documents in support of his claim and this claim is accepted, then the amount shall be paid to it together with interest thereon at the rate of 15% p.a. from 26th November 1983. In case the claim of petitioner is not acceptable, a reasoned order may be passed and in that case it is open to the petitioner to take legal remedy available to it.

#. The Special Civil Application and Rule stands disposed of in aforesaid terms with no order as to costs.

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